

SENATE BILL NO. 373—SENATORS SEGERBLOM,
PARKS, SPEARMAN; ATKINSON AND KIHUEN

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to judgments.
(BDR 2-932)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to judgments; authorizing a court to issue an order permitting a judgment debtor to pay a judgment in installments under certain circumstances; increasing the percentage of a judgment debtor's disposable earnings which is exempt from execution under certain circumstances; authorizing a judgment debtor who is a resident of this State to bring a civil action in certain circumstances against a judgment creditor who obtains a writ of garnishment without domesticating a foreign judgment; revising provisions relating to the exemption of annuity benefits from certain claims of the annuitant's creditors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes a court to allow a person who has had a judgment for the payment of money entered against him or her to pay the judgment in installments from income or property that is not exempt from execution if the court determines that the defendant is unable to pay the judgment.

Existing law provides that 75 percent of a judgment debtor's disposable earnings for any workweek are exempt from execution. (NRS 21.025, 21.075, 21.090, 31.045, 31.295) **Sections 2-4 and 6-9** of this bill increase the exemption to 90 percent of a judgment debtor's disposable earnings for any workweek if the gross annual salary or wage of the debtor is \$70,000 or less.

Existing law requires a judgment creditor who seeks to enforce a foreign judgment in this State to domesticate the foreign judgment by filing a copy of the foreign judgment with the clerk of any district court of this State. (NRS 17.330-17.400) **Section 5** of this bill authorizes a judgment debtor who is a resident of this



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State to bring a civil action against a judgment creditor who, without domesticating a foreign judgment, garnishes a bank account or any other personal property maintained by the judgment debtor at a branch of a financial institution located in this State or the earnings of the judgment debtor from employment in this State.

Existing law exempts annuity benefits from certain claims of the annuitant's creditors under certain circumstances. (NRS 687B.290) **Section 10** of this bill subjects certain amounts of annuity benefits to execution by certain creditors of the annuitant.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 21 of NRS is hereby amended by adding thereto a new provision to read as follows:

1. A judge of any court having jurisdiction at the time of the entry of a judgment, upon proper showing made by the defendant with both parties or their attorneys present in court, may make a written order permitting the judgment debtor to pay the judgment in installments from that portion of the judgment debtor's income or property which is not exempt from execution, at such times and in such amounts as, in the opinion of the judge, the judgment debtor is able to pay.

2. Upon compliance by the judgment debtor with the provisions of this section and the court rules, a judge of any court may issue an order permitting a judgment debtor to pay in installments from that portion of the judgment debtor's income or property which is not exempt from execution, at such times and in such amounts as, in the opinion of the judge, the judgment debtor is able to pay, any judgment previously entered by his or her court or filed in his or her court pursuant to NRS 17.350.

3. At any time after the entry of a judgment by a court or the filing of a judgment in a court pursuant to NRS 17.350, a judgment debtor may file a petition with the clerk of the court in which the judgment was entered or filed requesting the clerk to issue a notice, directed to the judgment creditor. The petition must include an affidavit of the judgment debtor setting forth the judgment debtor's inability to pay the judgment from that portion of the judgment debtor's income or property which is not exempt from execution.

4. A notice issued pursuant to subsection 3 must notify the judgment creditor of the day and time of a hearing to allow the judgment debtor to pay the judgment in installments. The notice must be served on the judgment creditor not later than 4 days before the date set for the hearing on the petition, by placing the notice in the United States mail in an envelope properly stamped



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1 *and addressed to the judgment creditor or the agent or attorney of*
2 *the judgment creditor.*

3 *5. Except as otherwise provided by court order, a writ of*
4 *execution or a writ of garnishment may not be issued on the*
5 *judgment after the filing of a petition pursuant to subsection 3.*

6 **Sec. 2.** NRS 21.025 is hereby amended to read as follows:

7 21.025 A writ of execution issued on a judgment for the
8 recovery of money must be substantially in the following form:

9
10 (Title of the Court)

11 (Number and abbreviated title of the case)

12 EXECUTION

13
14 THE PEOPLE OF THE STATE OF NEVADA:

15
16 To the sheriff of County.

17
18 Greetings:

19
20 To FINANCIAL INSTITUTIONS: This judgment is for
21 the recovery of money for the support of a person.

22
23 On(month).....(day).....(year), a judgment was entered
24 by the above-entitled court in the above-entitled action in
25 favor of as judgment creditor and against
26 as judgment debtor for:

27
28 \$..... principal,
29 \$..... attorney's fees,
30 \$..... interest, and
31 \$..... costs, making a total amount of
32 \$..... the judgment as entered, and
33

34 WHEREAS, according to an affidavit or a memorandum
35 of costs after judgment, or both, filed herein, it appears that
36 further sums have accrued since the entry of judgment, to wit:

37
38 \$..... accrued interest, and
39 \$..... accrued costs, together with \$..... fee, for the
40 issuance of this writ, making a total of
41 \$..... as accrued costs, accrued interest and fees.

42 Credit must be given for payments and partial satisfactions in
43 the amount of
44 \$.....



which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

\$.....

actually due on the date of the issuance of this writ, of which

\$.....

bears interest at percent per annum, in the amount of \$..... per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF OF COUNTY, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, *90 percent of the disposable earnings of the debtor during that week if the gross annual salary or wage of the debtor is \$70,000 or less*, 75 percent of the disposable earnings of the debtor during that week *if the gross annual salary or wage of the debtor exceeds \$70,000*, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Dated: This day of the month of of the year

....., Clerk.

By....., Deputy Clerk.

Sec. 3. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:



NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such



1 money is not exempt with respect to a landlord or landlord's
2 successor in interest who seeks to enforce the terms of the
3 agreement to rent or lease the dwelling.

4 11. A vehicle, if your equity in the vehicle is less than
5 \$15,000.

6 12. ~~Seventy-five~~ *Ninety* percent of the take-home pay
7 for any workweek ~~if~~ *if your gross annual salary or wage is*
8 *\$70,000 or less, or seventy-five percent of the take-home pay*
9 *for any workweek if your gross annual salary or wage*
10 *exceeds \$70,000*, unless the weekly take-home pay is less
11 than 50 times the federal minimum hourly wage, in which
12 case the entire amount may be exempt.

13 13. Money, not to exceed \$500,000 in present value,
14 held in:

15 (a) An individual retirement arrangement which conforms
16 with the applicable limitations and requirements of section
17 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408
18 and 408A;

19 (b) A written simplified employee pension plan which
20 conforms with the applicable limitations and requirements of
21 section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

22 (c) A cash or deferred arrangement that is a qualified plan
23 pursuant to the Internal Revenue Code;

24 (d) A trust forming part of a stock bonus, pension or
25 profit-sharing plan that is a qualified plan pursuant to sections
26 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et
27 seq.; and

28 (e) A trust forming part of a qualified tuition program
29 pursuant to chapter 353B of NRS, any applicable regulations
30 adopted pursuant to chapter 353B of NRS and section 529 of
31 the Internal Revenue Code, 26 U.S.C. § 529, unless the
32 money is deposited after the entry of a judgment against the
33 purchaser or account owner or the money will not be used by
34 any beneficiary to attend a college or university.

35 14. All money and other benefits paid pursuant to the
36 order of a court of competent jurisdiction for the support,
37 education and maintenance of a child, whether collected by
38 the judgment debtor or the State.

39 15. All money and other benefits paid pursuant to the
40 order of a court of competent jurisdiction for the support and
41 maintenance of a former spouse, including the amount of any
42 arrearages in the payment of such support and maintenance to
43 which the former spouse may be entitled.

44 16. Regardless of whether a trust contains a spendthrift
45 provision:



(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the contingency has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.



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- 1 23. Payments received as restitution for a criminal act.
2 24. Personal property, not to exceed \$1,000 in total
3 value, if the property is not otherwise exempt from execution.
4 25. A tax refund received from the earned income credit
5 provided by federal law or a similar state law.
6 26. Stock of a corporation described in subsection 2 of
7 NRS 78.746 except as set forth in that section.
8 ➔ These exemptions may not apply in certain cases such as a
9 proceeding to enforce a judgment for support of a person or a
10 judgment of foreclosure on a mechanic's lien. You should
11 consult an attorney immediately to assist you in determining
12 whether your property or money is exempt from execution. If
13 you cannot afford an attorney, you may be eligible for
14 assistance through (name of organization in
15 county providing legal services to indigent or elderly
16 persons). If you do not wish to consult an attorney or receive
17 legal services from an organization that provides assistance to
18 persons who qualify, you may obtain the form to be used to
19 claim an exemption from the clerk of the court.
20

21 PROCEDURE FOR CLAIMING EXEMPT PROPERTY

22

23 If you believe that the money or property taken from you
24 is exempt, you must complete and file with the clerk of the
25 court an executed claim of exemption. A copy of the claim of
26 exemption must be served upon the sheriff, the garnishee and
27 the judgment creditor within 10 days after the notice of
28 execution or garnishment is served on you by mail pursuant
29 to NRS 21.076 which identifies the specific property that is
30 being levied on. The property must be released by the
31 garnishee or the sheriff within 9 judicial days after you serve
32 the claim of exemption upon the sheriff, garnishee and
33 judgment creditor, unless the sheriff or garnishee receives a
34 copy of an objection to the claim of exemption and a notice
35 for a hearing to determine the issue of exemption. If this
36 happens, a hearing will be held to determine whether the
37 property or money is exempt. The objection to the claim of
38 exemption and notice for the hearing to determine the issue of
39 exemption must be filed within 8 judicial days after the claim
40 of exemption is served on the judgment creditor by mail or in
41 person and served on the judgment debtor, the sheriff and any
42 garnishee not less than 5 judicial days before the date set for
43 the hearing. The hearing to determine whether the property or
44 money is exempt must be held within 7 judicial days after the
45 objection to the claim of exemption and notice for the hearing



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1 is filed. You may be able to have your property released more
2 quickly if you mail to the judgment creditor or the attorney of
3 the judgment creditor written proof that the property is
4 exempt. Such proof may include, without limitation, a letter
5 from the government, an annual statement from a pension
6 fund, receipts for payment, copies of checks, records from
7 financial institutions or any other document which
8 demonstrates that the money in your account is exempt.
9

10 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
11 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
12 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
13 TO THE JUDGMENT CREDITOR, EVEN IF THE
14 PROPERTY OR MONEY IS EXEMPT.

15 **Sec. 4.** NRS 21.090 is hereby amended to read as follows:

16 21.090 1. The following property is exempt from execution,
17 except as otherwise specifically provided in this section or required
18 by federal law:

19 (a) Private libraries, works of art, musical instruments and
20 jewelry not to exceed \$5,000 in value, belonging to the judgment
21 debtor or a dependent of the judgment debtor, to be selected by the
22 judgment debtor, and all family pictures and keepsakes.

23 (b) Necessary household goods, furnishings, electronics,
24 wearing apparel, other personal effects and yard equipment, not to
25 exceed \$12,000 in value, belonging to the judgment debtor or a
26 dependent of the judgment debtor, to be selected by the judgment
27 debtor.

28 (c) Farm trucks, farm stock, farm tools, farm equipment,
29 supplies and seed not to exceed \$4,500 in value, belonging to the
30 judgment debtor to be selected by the judgment debtor.

31 (d) Professional libraries, equipment, supplies, and the tools,
32 inventory, instruments and materials used to carry on the trade or
33 business of the judgment debtor for the support of the judgment
34 debtor and his or her family not to exceed \$10,000 in value.

35 (e) The cabin or dwelling of a miner or prospector, the miner's
36 or prospector's cars, implements and appliances necessary for
37 carrying on any mining operations and the mining claim actually
38 worked by the miner or prospector, not exceeding \$4,500 in total
39 value.

40 (f) Except as otherwise provided in paragraph (p), one vehicle if
41 the judgment debtor's equity does not exceed \$15,000 or the
42 creditor is paid an amount equal to any excess above that equity.

43 (g) For any workweek, *90 percent of the disposable earnings of*
44 *a judgment debtor during that week if the gross annual salary or*
45 *wage of the judgment debtor is \$70,000 or less, 75 percent of the*



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1 disposable earnings of a judgment debtor during that week **H if the**
2 **gross annual salary or wage of the judgment debtor exceeds**
3 **\$70,000**, or 50 times the minimum hourly wage prescribed by
4 section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29
5 U.S.C. § 206(a)(1), and in effect at the time the earnings are
6 payable, whichever is greater. Except as otherwise provided in
7 paragraphs (o), (s) and (t), the exemption provided in this paragraph
8 does not apply in the case of any order of a court of competent
9 jurisdiction for the support of any person, any order of a court of
10 bankruptcy or of any debt due for any state or federal tax. As used in
11 this paragraph:

12 (1) "Disposable earnings" means that part of the earnings of
13 a judgment debtor remaining after the deduction from those earnings
14 of any amounts required by law to be withheld.

15 (2) "Earnings" means compensation paid or payable for
16 personal services performed by a judgment debtor in the regular
17 course of business, including, without limitation, compensation
18 designated as income, wages, tips, a salary, a commission or a
19 bonus. The term includes compensation received by a judgment
20 debtor that is in the possession of the judgment debtor,
21 compensation held in accounts maintained in a bank or any other
22 financial institution or, in the case of a receivable, compensation
23 that is due the judgment debtor.

24 (h) All fire engines, hooks and ladders, with the carts, trucks and
25 carriages, hose, buckets, implements and apparatus thereunto
26 appertaining, and all furniture and uniforms of any fire company or
27 department organized under the laws of this State.

28 (i) All arms, uniforms and accouterments required by law to be
29 kept by any person, and also one gun, to be selected by the debtor.

30 (j) All courthouses, jails, public offices and buildings, lots,
31 grounds and personal property, the fixtures, furniture, books, papers
32 and appurtenances belonging and pertaining to the courthouse, jail
33 and public offices belonging to any county of this State, all
34 cemeteries, public squares, parks and places, public buildings, town
35 halls, markets, buildings for the use of fire departments and military
36 organizations, and the lots and grounds thereto belonging and
37 appertaining, owned or held by any town or incorporated city, or
38 dedicated by the town or city to health, ornament or public use, or
39 for the use of any fire or military company organized under the laws
40 of this State and all lots, buildings and other school property owned
41 by a school district and devoted to public school purposes.

42 (k) All money, benefits, privileges or immunities accruing or in
43 any manner growing out of any life insurance.

44 (l) The homestead as provided for by law, including a
45 homestead for which allodial title has been established and not



1 relinquished and for which a waiver executed pursuant to NRS
2 115.010 is not applicable.

3 (m) The dwelling of the judgment debtor occupied as a home for
4 himself or herself and family, where the amount of equity held by
5 the judgment debtor in the home does not exceed \$550,000 in value
6 and the dwelling is situated upon lands not owned by the judgment
7 debtor.

8 (n) All money reasonably deposited with a landlord by the
9 judgment debtor to secure an agreement to rent or lease a dwelling
10 that is used by the judgment debtor as his or her primary residence,
11 except that such money is not exempt with respect to a landlord or
12 the landlord's successor in interest who seeks to enforce the terms of
13 the agreement to rent or lease the dwelling.

14 (o) All property in this State of the judgment debtor where the
15 judgment is in favor of any state for failure to pay that state's
16 income tax on benefits received from a pension or other retirement
17 plan.

18 (p) Any vehicle owned by the judgment debtor for use by the
19 judgment debtor or the judgment debtor's dependent that is
20 equipped or modified to provide mobility for a person with a
21 permanent disability.

22 (q) Any prosthesis or equipment prescribed by a physician or
23 dentist for the judgment debtor or a dependent of the debtor.

24 (r) Money, not to exceed \$500,000 in present value, held in:

25 (1) An individual retirement arrangement which conforms
26 with the applicable limitations and requirements of section 408 or
27 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

28 (2) A written simplified employee pension plan which
29 conforms with the applicable limitations and requirements of section
30 408 of the Internal Revenue Code, 26 U.S.C. § 408;

31 (3) A cash or deferred arrangement which is a qualified plan
32 pursuant to the Internal Revenue Code;

33 (4) A trust forming part of a stock bonus, pension or profit-
34 sharing plan which is a qualified plan pursuant to sections 401 et
35 seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

36 (5) A trust forming part of a qualified tuition program
37 pursuant to chapter 353B of NRS, any applicable regulations
38 adopted pursuant to chapter 353B of NRS and section 529 of the
39 Internal Revenue Code, 26 U.S.C. § 529, unless the money is
40 deposited after the entry of a judgment against the purchaser or
41 account owner or the money will not be used by any beneficiary to
42 attend a college or university.

43 (s) All money and other benefits paid pursuant to the order of a
44 court of competent jurisdiction for the support, education and



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1 maintenance of a child, whether collected by the judgment debtor or
2 the State.

3 (t) All money and other benefits paid pursuant to the order of a
4 court of competent jurisdiction for the support and maintenance of a
5 former spouse, including the amount of any arrearages in the
6 payment of such support and maintenance to which the former
7 spouse may be entitled.

8 (u) Payments, in an amount not to exceed \$16,150, received as
9 compensation for personal injury, not including compensation for
10 pain and suffering or actual pecuniary loss, by the judgment debtor
11 or by a person upon whom the judgment debtor is dependent at the
12 time the payment is received.

13 (v) Payments received as compensation for the wrongful death
14 of a person upon whom the judgment debtor was dependent at the
15 time of the wrongful death, to the extent reasonably necessary for
16 the support of the judgment debtor and any dependent of the
17 judgment debtor.

18 (w) Payments received as compensation for the loss of future
19 earnings of the judgment debtor or of a person upon whom the
20 judgment debtor is dependent at the time the payment is received, to
21 the extent reasonably necessary for the support of the judgment
22 debtor and any dependent of the judgment debtor.

23 (x) Payments received as restitution for a criminal act.

24 (y) Payments received pursuant to the federal Social Security
25 Act, including, without limitation, retirement and survivors'
26 benefits, supplemental security income benefits and disability
27 insurance benefits.

28 (z) Any personal property not otherwise exempt from execution
29 pursuant to this subsection belonging to the judgment debtor,
30 including, without limitation, the judgment debtor's equity in any
31 property, money, stocks, bonds or other funds on deposit with a
32 financial institution, not to exceed \$1,000 in total value, to be
33 selected by the judgment debtor.

34 (aa) Any tax refund received by the judgment debtor that is
35 derived from the earned income credit described in section 32 of the
36 Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided
37 pursuant to a state law.

38 (bb) Stock of a corporation described in subsection 2 of NRS
39 78.746 except as set forth in that section.

40 (cc) Regardless of whether a trust contains a spendthrift
41 provision:

42 (1) A distribution interest in the trust as defined in NRS
43 163.4155 that is a contingent interest, if the contingency has not
44 been satisfied or removed;



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(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 5. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any judgment debtor who is a resident of this State and who maintains an account or any other property at a branch of a



1 *financial institution located in this State or whose earnings are*
2 *derived from employment in this State may bring a civil action*
3 *against a judgment creditor under a foreign judgment, if the*
4 *judgment creditor, without satisfying the requirements of NRS*
5 *17.330 to 17.400, inclusive, has obtained a writ of garnishment to*
6 *satisfy all or part of the foreign judgment from:*

7 *(a) The earnings of the judgment debtor derived from*
8 *employment in this State; or*

9 *(b) Money in the account or any other property maintained by*
10 *the judgment debtor at a branch of a financial institution located*
11 *in this State.*

12 *2. A judgment debtor who prevails in an action brought*
13 *under this section may recover from the judgment creditor*
14 *damages equal to two times any amount paid to the judgment*
15 *creditor under the writ of garnishment. If the judgment debtor*
16 *prevails in an action brought under this section, the court must*
17 *award reasonable attorney's fees and costs to the plaintiff.*

18 *3. As used in this section, "foreign judgment" has the*
19 *meaning ascribed to it in NRS 17.340.*

20 **Sec. 6.** NRS 31.045 is hereby amended to read as follows:

21 31.045 1. Execution on the writ of attachment by attaching
22 property of the defendant may occur only if:

23 (a) The judgment creditor serves the defendant with notice of
24 the execution when the notice of the hearing is served pursuant to
25 NRS 31.013; or

26 (b) Pursuant to an ex parte hearing, the sheriff serves upon the
27 judgment debtor notice of the execution and a copy of the writ at the
28 same time and in the same manner as set forth in NRS 21.076.

29 ➤ If the attachment occurs pursuant to an ex parte hearing, the clerk
30 of the court shall attach the notice to the writ of attachment at the
31 time the writ is issued.

32 2. The notice required pursuant to subsection 1 must be
33 substantially in the following form:

34
35 NOTICE OF EXECUTION

36
37 YOUR PROPERTY IS BEING ATTACHED OR
38 YOUR WAGES ARE BEING GARNISHED

39
40 Plaintiff, (name of person), alleges that you
41 owe the plaintiff money. The plaintiff has begun the
42 procedure to collect that money. To secure satisfaction of
43 judgment, the court has ordered the garnishment of your
44 wages, bank account or other personal property held by third



persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. ~~Seventy-five~~ *Ninety* percent of the take-home pay for any workweek ~~if~~ *if your gross annual salary or wage is \$70,000 or less, or seventy-five percent of the take-home pay for any workweek if your gross annual salary or wage*



1 *exceeds \$70,000*, unless the weekly take-home pay is less
2 than 50 times the federal minimum hourly wage, in which
3 case the entire amount may be exempt.

4 13. Money, not to exceed \$500,000 in present value,
5 held in:

6 (a) An individual retirement arrangement which conforms
7 with the applicable limitations and requirements of section
8 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408
9 and 408A;

10 (b) A written simplified employee pension plan which
11 conforms with the applicable limitations and requirements of
12 section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

13 (c) A cash or deferred arrangement that is a qualified plan
14 pursuant to the Internal Revenue Code;

15 (d) A trust forming part of a stock bonus, pension or
16 profit-sharing plan that is a qualified plan pursuant to sections
17 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et
18 seq.; and

19 (e) A trust forming part of a qualified tuition program
20 pursuant to chapter 353B of NRS, any applicable regulations
21 adopted pursuant to chapter 353B of NRS and section 529 of
22 the Internal Revenue Code, 26 U.S.C. § 529, unless the
23 money is deposited after the entry of a judgment against the
24 purchaser or account owner or the money will not be used by
25 any beneficiary to attend a college or university.

26 14. All money and other benefits paid pursuant to the
27 order of a court of competent jurisdiction for the support,
28 education and maintenance of a child, whether collected by
29 the judgment debtor or the State.

30 15. All money and other benefits paid pursuant to the
31 order of a court of competent jurisdiction for the support and
32 maintenance of a former spouse, including the amount of any
33 arrearages in the payment of such support and maintenance to
34 which the former spouse may be entitled.

35 16. Regardless of whether a trust contains a spendthrift
36 provision:

37 (a) A present or future interest in the income or principal
38 of a trust that is a contingent interest, if the interest has not
39 been satisfied or removed;

40 (b) A present or future interest in the income or principal
41 of a trust for which discretionary power is held by a trustee to
42 determine whether to make a distribution from the trust, if the
43 interest has not been distributed from the trust;



(c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.



↪ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons). If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing must be held within 7 judicial days after the objection to the claim of exemption and notice for a hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document



1 which demonstrates that the money in your account is
2 exempt.

3
4 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
5 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
6 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
7 TO THE JUDGMENT CREDITOR, EVEN IF THE
8 PROPERTY OR MONEY IS EXEMPT.

9
10 If you received this notice with a notice of a hearing for
11 attachment and you believe that the money or property which
12 would be taken from you by a writ of attachment is exempt or
13 necessary for the support of you or your family, you are
14 entitled to describe to the court at the hearing why you
15 believe your property is exempt. You may also file a motion
16 with the court for a discharge of the writ of attachment. You
17 may make that motion any time before trial. A hearing will be
18 held on that motion.

19
20 IF YOU DO NOT FILE THE MOTION BEFORE THE
21 TRIAL, YOUR PROPERTY MAY BE SOLD AND
22 THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE
23 PROPERTY OR MONEY IS EXEMPT OR NECESSARY
24 FOR THE SUPPORT OF YOU OR YOUR FAMILY.

25 **Sec. 7.** NRS 31.060 is hereby amended to read as follows:

26 31.060 Subject to the requirements of NRS 31.045, the sheriff
27 to whom the writ is directed and delivered shall execute it without
28 delay, and if the undertaking mentioned in NRS 31.040 is not given,
29 as follows:

30 1. Real property must be attached by leaving a copy of the writ
31 with the occupant of the property or, if there is no occupant, by
32 posting a copy in a conspicuous place on the property and recording
33 the writ, together with a description of the property attached, with
34 the recorder of the county.

35 2. Personal property must be attached:

36 (a) By taking it into immediate custody, and, if directed by the
37 plaintiff, using the services of any company which operates a tow
38 car, as defined in NRS 706.131, or common motor carrier, as
39 defined in NRS 706.036, to transport it for storage in a warehouse or
40 storage yard that is insured or bonded in an amount not less than the
41 full value of the property; or

42 (b) By placing a keeper in charge of a going business where the
43 property is located, with the plaintiff prepaying the expense of the
44 keeper to the sheriff, during which period, the defendant, by order of
45 the court or the consent of the plaintiff, may continue to operate in



* S B 3 7 3 R 1 *

1 the ordinary course of business at the defendant's own expense if all
2 sales are for cash and the full proceeds are paid to the keeper for the
3 purpose of the attachment.

4 ➡ If the property is stored pursuant to paragraph (a), the property
5 must be segregated from other property and marked by signs or
6 other appropriate means indicating that it is in the custody of the
7 sheriff.

8 3. Any mobile home, as defined in NRS 40.215, must be
9 attached by:

10 (a) Posting a copy of the writ in a conspicuous place on the
11 mobile home;

12 (b) Taking it into immediate custody, subject to the provisions
13 of subsection 2; or

14 (c) Placing a keeper in charge of the mobile home for 2 days,
15 with the plaintiff prepaying the expense of the keeper to the sheriff:

16 (1) During which period, the defendant may continue to
17 occupy the mobile home; and

18 (2) After which period, the sheriff shall take the mobile home
19 into the sheriff's immediate custody, subject to the provisions of
20 subsection 2, unless other disposition is made by the court or the
21 parties to the action.

22 4. Debts and credits, due or to become due, and other personal
23 property in the possession or under the control of persons other than
24 the defendant must be attached by service of a writ of garnishment
25 as provided in NRS 31.240 to 31.460, inclusive **H**, and *section 5 of*
26 *this act*.

27 **Sec. 8.** NRS 31.290 is hereby amended to read as follows:

28 31.290 1. The interrogatories to be submitted with any writ
29 of execution, attachment or garnishment to the garnishee may be in
30 substance as follows:

31
32 INTERROGATORIES

33
34 Are you in any manner indebted to the defendants.....
35

36
37 or either of them, either in property or money, and is the debt
38 now due? If not due, when is the debt to become due? State
39 fully all particulars.

40 Answer:
41

42 Are you an employer of one or all of the defendants? If
43 so, state the length of your pay period and the amount of
44 disposable earnings, as defined in NRS 31.295, that each
45 defendant presently earns during a pay period. State the



1 minimum amount of disposable earnings that is exempt from
2 this garnishment, which is the federal minimum hourly wage
3 prescribed by section 6(a)(1) of the federal Fair Labor
4 Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the
5 time the earnings are payable multiplied by 50 for each week
6 of the pay period, after deducting any amount required by law
7 to be withheld.

8 Calculate the garnishable amount as follows:

9 (Check one of the following) The employee is paid:

10 [A] Weekly: ____ [B] Biweekly: ____ [C] Semimonthly: ____

11 [D] Monthly: ____

12 (1) Gross Earnings \$

13 (2) Deductions required by law (not
14 including child support) \$

15 (3) Disposable Earnings [Subtract line 2
16 from line 1] \$

17 (4) Federal Minimum Wage \$

18 (5) Multiply line 4 by 50 \$

19 (6) Complete the following directions in accordance with
20 the letter selected above:

21 [A] Multiply line 5 by 1 \$

22 [B] Multiply line 5 by 2 \$

23 [C] Multiply line 5 by 52 and then divide
24 by 24 \$

25 [D] Multiply line 5 by 52 and then divide
26 by 12 \$

27 (7) Subtract line 6 from line 3 \$

28 This is the attachable earnings. This amount must not
29 exceed ***10 percent of the disposable earnings from line 3 if***
30 ***the employee's gross annual salary or wage is \$70,000 or***
31 ***less or ~~25%~~ 25 percent of the disposable earnings from***
32 ***line 3 if the employee's gross annual salary or wage exceeds***
33 ***\$70,000*** of the disposable earnings from line 3.

34 Answer:

35
36 Did you have in your possession, in your charge or
37 under your control, on the date the writ of garnishment was
38 served upon you, any money, property, effects, goods,
39 chattels, rights, credits or choses in action of the defendants,
40 or either of them, or in whichis interested?
41 If so, state its value, and state fully all particulars.

42 Answer:

43
44 Do you know of any debts owing to the defendants,
45 whether due or not due, or any money, property, effects,



goods, chattels, rights, credits or choses in action, belonging to or in which is interested, and now in the possession or under the control of others? If so, state particulars.

Answer:

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in NRS 21.105, \$2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in NRS 21.105 or, if no such deposit has been made, \$400 or the entire amount in the account, whichever is less, is not subject to garnishment, unless the garnishment is for the recovery of money owed for the support of any person. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:

Garnishee

I (insert the name of the garnishee), declare under penalty of perjury that the answers to the foregoing interrogatories by me subscribed are true and correct.

.....
(Signature of garnishee)

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. The garnishee shall submit his or her answers to the judgment debtor within the same time. If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 9. NRS 31.295 is hereby amended to read as follows:

31.295 1. As used in this section:



(a) “Disposable earnings” means that part of the earnings of any person remaining after the deduction from those earnings of any amounts required by law to be withheld.

(b) “Earnings” means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

2. The maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed:

(a) *Ten percent of the person’s disposable earnings for the relevant workweek if the person’s gross annual salary or wage is \$70,000 or less;*

(b) Twenty-five percent of the person’s disposable earnings for the relevant workweek ~~if~~ *if the person’s gross annual salary or wage exceeds \$70,000; or*

(c) The amount by which the person’s disposable earnings for that week exceed 50 times the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable,

↳ whichever is less.

3. The restrictions of subsection 2 do not apply in the case of:

(a) Any order of any court for the support of any person.

(b) Any order of any court of bankruptcy.

(c) Any debt due for any state or federal tax.

4. Except as otherwise provided in this subsection, the maximum amount of the aggregate disposable earnings of a person for any workweek which are subject to garnishment to enforce any order for the support of any person may not exceed:

(a) Fifty percent of the person’s disposable earnings for that week if the person is supporting a spouse or child other than the spouse or child for whom the order of support was rendered; or

(b) Sixty percent of the person’s disposable earnings for that week if the person is not supporting such a spouse or child,

↳ except that if the garnishment is to enforce a previous order of support with respect to a period occurring at least 12 weeks before the beginning of the workweek, the limits which apply to the situations described in paragraphs (a) and (b) are 55 percent and 65 percent, respectively.



1 **Sec. 10.** NRS 687B.290 is hereby amended to read as follows:

2 687B.290 1. The benefits, rights, privileges and options
3 which under any annuity contract issued prior to or after January 1,
4 1972, are due or prospectively due the annuitant shall not be subject
5 to execution nor shall the annuitant be compelled to exercise any
6 such rights, powers or options, nor shall creditors be allowed to
7 interfere with or terminate the contract, except as to *amounts listed*
8 *as an asset on an application for a loan or pledged as payment for*
9 *a loan or* amounts paid for or as premium on any such annuity with
10 intent to defraud creditors, with interest thereon, and of which the
11 creditor has given the insurer written notice at its home office *within*
12 *1 year after the annuitant makes a payment to the insurer or* prior
13 to the making of the payment to the annuitant out of which the
14 creditor seeks to recover. Any such notice shall specify the amount
15 claimed or such facts as will enable the insurer to ascertain such
16 amount, and shall set forth such facts as will enable the insurer to
17 ascertain the annuity contract, the annuitant and the payment sought
18 to be avoided on the ground of fraud.

19 2. If the contract so provides, the benefits, rights, privileges or
20 options accruing under such contract to a beneficiary or assignee
21 shall not be transferable or subject to commutation, and the same
22 exemptions and exceptions contained in this section for the
23 annuitant shall apply with respect to such beneficiary or assignee.

